

COMBINED DECLARATION/POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled IMPROVED DISTAL PROTECTION DEVICE the specification of which (check one)

☐ is attached hereto

☒ was filed on July 28, 2000
as U.S. Application
Serial No. 09/628,212

☐ and was amended on (if applicable) _____

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a).

I hereby claim foreign priority benefit(s) under Title 35, United States Code §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application(s) for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)			Priority Claimed	
_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	YES	NO
_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	YES	NO
_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	YES	NO

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner

provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

(Serial No.)	(Filing Date)	(Status) (patented, pending, abandoned)
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(Serial No.)	(Filing Date)	(Status-patented, pending, abandoned)
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POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

John L. Rooney, Reg. No. 28,898;
Lawrence M. Nawrocki, Reg. No. 29,333;
Wayne A. Sivertson, Reg. No. 25,645;
Richard C. Stempkovski, Jr., Reg. No. 45,130;
Jeffery L. Cameron, Reg. No. 43,527; and
Donald A. Jacobson, Reg. No. 22,308

Send correspondence to:

Lawrence M. Nawrocki
NAWROCKI, ROONEY & SIVERTSON, P.A.
Suite 401, Broadway Place East
3433 Broadway Street Northeast
Minneapolis, Minnesota 55413
(612) 331-1464

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon, I further declare that I understand the content of this declaration.

Full name of sole or first inventor John C. Oslund
Inventor's Signature [Signature] Date 11/06/00
Residence 9620 Harkness Avenue South
Cottage Grove, Minnesota 55016 Citizenship U.S.A.
Post Office Address 9620 Harkness Avenue South
Cottage Grove, Minnesota 55016

Full name of second or joint inventor Chad J. Volk
Inventor's Signature [Signature] Date 11/02/00
Residence 1626 Maple Place
West Fargo, North Dakota 58078 Citizenship U.S.A.
Post Office Address 1626 Maple Place
West Fargo, North Dakota 58078

1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
 - (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
 - (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
 - (2) Each attorney or agent who prepares or prosecutes the application; and
 - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: John C. Oslund et al.

Attorney Docket: ev3-1010US

Serial No: 09/628,212

Group Art Unit: 3748

Filed: July 28, 2000

Examiner: Jaime W. Corrigan

For: IMPROVED DISTAL PROTECTION DEVICE

**REVOCATION OF FORMER POWERS OF ATTORNEY AND
NEW POWER OF ATTORNEY BY ASSIGNEE OF ENTIRE INTEREST**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

As Assignee of the entire interest of the above-identified U.S. patent application (in accordance with the Statement under 37 C.F.R. §3.73(b), herewith attached), ev3 Inc., having a place of business at 4600 Nathan Lane North, Plymouth, MN 55442-2920, hereby revokes all powers of attorney previously given and appoints the following as its attorneys to prosecute and transact all business in the U.S. Patent and Trademark Office connected therewith, including the power to receive all documents issued by the U.S. Patent and Trademark Office based thereon, to file continuation, continuation-in-part and divisional applications based thereon, to pay any and all fees, including maintenance fees for any resulting patent, and to file for reissues and extensions and to request

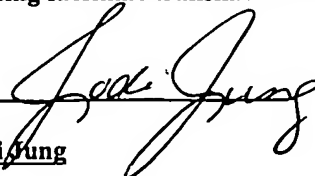
Certification of Facsimile Transmission

I hereby certify that 4 pages including cover are being facsimile transmitted to the Patent and Trademark Office on the date shown below:

Date:

June 4, 2003

Signature:



Name: Jodi Jung

Revocation of Former
Powers of Attorney
Applicants: John C. Oslund et al.
Serial Number: 09/628,212

Attorney Locket: ev3-1010US

reexamination of any resulting patent, all such powers to be exercised separately or collectively by:

Terry L. Wiles, Esq. (29,989)
Thomas E. Popovich, Esq. (30,099)
Patrick J. O'Connell, Esq. (33,984)
Miriam G. Simmons (34,727)

Said Assignee requests that all correspondence concerning this application be sent to:

Terry L. Wiles, Esq. (29,989)
POPOVICH & WILES, P.A.
IDS Center, Suite 1902
80 South 8th Street
Minneapolis, MN 55402

Said Assignee also requests that all telephone calls be directed to Terry L. Wiles at (612) 334-8992.

28 May 03
Date

Richard S. Kusleika
Signature

Richard S. Kusleika
Vice President, Research and
Development

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: John C. Oslund et al.

Attorney Docket: ev3-1010US

Serial No: 09/628,212

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Examiner: Jaime W. Corrigan

For: IMPROVED DISTAL PROTECTION DEVICE

STATEMENT UNDER 37 C.F.R. § 3.73(b)

This certifies that ev3 Inc. is the assignee of the entire right, title and interest in the patent application identified above by virtue of a chain of title from the inventors of the patent application identified above to the current assignee as shown below.

1. From John C. Oslund and Chad J. Volk to: Microvena Corporation
This document was recorded in application Serial No. 09/628,212, filed July 28, 2000, on November 30, 2000 in the Patent and Trademark Office at Reel 011355 Frame 0489 and

2. From Microvena Corporation to: ev3 Inc.
This document was recorded in application Serial No. 09/628,212 on January 8, 2003 in the Patent and Trademark Office at Reel 013634 Frame 0326.

Date: 28 May 03

Name: Richard S. Kusleika
Richard S. Kusleika
Vice President, Research and
Development

Certification of Facsimile Transmission

I hereby certify that 4 pages including cover are being facsimile transmitted to the Patent and Trademark Office on the date shown below:

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June 4, 2003

Signature:

Name: Jodi Jung

Jodi Jung